



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

OFFICE OF WATER

MAY 18 2015

The Honorable Ruben Gallego
House of Representatives
Washington, DC 20515

Dear Congressman Gallego:

Thank you for your letter dated April 2, 2015, to Administrator McCarthy regarding the proposed Environmental Protection Agency and Department of the Army rule defining the term "waters of the United States" under the Clean Water Act. The agencies' current rulemaking process is among the most important actions we have underway to ensure reliable sources of clean water on which Americans depend for public health, a growing economy, jobs, and a healthy environment.

I appreciate your concern regarding the importance of working effectively with the public and, particularly, stakeholders in the desert southwest as the rulemaking process moves forward. The proposed rule was published in the *Federal Register* in April 2014, and the comment period was extended twice until November 2014 to provide an effective opportunity for public review and comment.

The EPA and the Army received over one million comments, and have engaged in over 400 meetings with stakeholders from across the country, including a broad range of groups such as farmers, businesses, states and local governments, water users, energy companies, coal and mineral mining groups, and conservation interests. The agencies are working to review public comments as we move toward developing a final regulation.

It is important to emphasize that the proposed rule would reduce the scope of waters protected under the Clean Water Act compared to waters covered during the 1970s, 80s, and 90s to conform to decisions of the Supreme Court. The rule would limit Clean Water Act jurisdiction only to those types of waters that have a significant effect on downstream traditional navigable waters - not just any hydrologic connection. It would improve efficiency, clarity, and predictability for all landowners, including the nation's farmers, as well as permit applicants, while maintaining all current exemptions and protecting public health, water quality, and the environment. It uses the law and sound, peer-reviewed science as its cornerstones.

Your letter expresses specific concerns regarding the impact of the agencies' proposed rule on Arizona, with special focus on water features that do not flow all the time and on manmade water distribution systems. With respect to streams, the agencies' proposed rule would define the term "tributary" as a water feature that includes a bed and banks and an ordinary high water mark, which are characteristics that are produced by flowing water. In contrast, water features that do not exhibit these characteristics would not be jurisdictional.

America thrives on clean water. Clean water is vital for the success of the nation's businesses, agriculture, energy development, and the health of our communities. We are striving to define the scope of the Clean Water Act so that it achieves the goals of protecting clean water and public health, and promoting jobs and the economy, in a way that works for Arizonans, as well as all Americans.

Thank you again for your letter. If you have any additional questions, please feel free to contact me, or your staff may contact Mr. Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at borum.denis@epa.gov or (202) 564-4836.

Sincerely,

A handwritten signature in black ink, reading "Kenneth J. Kopocis". The signature is written in a cursive style with a large, stylized "K" and "J".

Kenneth J. Kopocis
Deputy Assistant Administrator